

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

FILED

AUG 29 2017

Clerk, U.S. District Court
District Of Montana
Billings

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HENRY ANGUS BADBEAR,

Defendant.

CR 07-31-BLG-SPW

ORDER

On August 11, 2017, United States Magistrate Judge Timothy Cavan entered Findings and Recommendations with respect to the May 4, 2017, petition for revocation of Defendant Badbear's supervised release. (Docs. 34 and 44). Based on Badbear's admissions to the alleged violations, Judge Cavan recommends his supervised release be revoked and recommends that this Court sentence Badbear to nine months imprisonment with no supervised release to follow. (*Id.* at 6).

A district judge "may accept, reject, or modify the recommended disposition" on a dispositive matter prepared by a magistrate judge proceeding without the consent of the parties for all purposes. Fed.R.Civ.P. 72(b); *see* 28 U.S.C. § 636(b)(1). "The court shall make a *de novo* determination of those

portions of the [report and recommendation] to which objection is made.” 28 U.S.C. § 636(b)(1).

Badbear objects to Judge Cavan’s recommendation of nine months’ imprisonment. (Doc. 45). Badbear’s counsel argues that Badbear is hospitalized and is in grave condition due to severe cirrhosis of the liver. (*Id.* at 2). Although the court empathizes with Badbear’s medical condition, it does not find his condition a sufficient excuse to relieve Badbear of Judge Cavan’s nine month imprisonment recommendation.

The Court is in receipt of Badbear’s Hospital Discharge Notification, attached under seal as Exhibit A. According to his medical records, the confusion that led to his hospitalization resulted from symptoms of his cirrhosis, which his doctor addressed during his inpatient status. After treatment and observation, Badbear had recovered, reported to his doctor that he “feels fine,” and was eating well. After consultation with Yellowstone County Detention Facility staff, Badbear’s doctor confirmed that the detention facility in Shelby, Montana had the adequate means to monitor Badbear’s condition and prescriptions. His doctor noted that she would make sure Badbear received the necessary medication during his incarceration. His medical records were copied and shall be sent to the Shelby facility for continuity of care. Nothing in the records indicate that Badbear’s condition is imminently terminal.

Based on this information, the court finds Judge Cavan's recommendation of nine months incarceration with no supervision to follow is appropriate.

Judge Cavan's Findings and Recommendations are hereby adopted in full.

IT IS ORDERED that Defendant Badbear's supervised release is revoked.

Judgment will be entered by separate document.

DATED this 29th day of August 2017.


SUSAN P. WATTERS
United States District Judge